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BRIAN LIVESAY

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

BRIAN LIVESAY,
Plaintiff,
v.
BBVA COMPASS BANCSHARES, INC.
Defendant.

) Case No.: **'15CV2308 DMS RBB**
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)
COMPLAINT AND DEMAND FOR
JURY TRIAL
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(Unlawful Debt Collection Practices)
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BRIAN LIVESAY (Plaintiff), by his attorneys, KROHN & MOSS, LTD., alleges the following against BBVA COMPASS BANCSHARES, INC. (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on Telephone Consumer Protection Act, 28 U.S.C. § 227 *et seq.* (TCPA).

JURISDICTION AND VENUE

- 1 2. Jurisdiction of this Court over Counts I of Plaintiff's Complaint arises pursuant to 28
- 2 U.S.C. § 1331, and 28 U.S.C. § 1367 grants this court supplemental jurisdiction over the
- 3 state claims contained herein.
- 4 3. Defendant conducts business in the State of California thereby establishing personal
- 5 jurisdiction.
- 6 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

- 8 5. Plaintiff is a natural person residing in San Diego, San Diego County, California.
- 9 6. Defendant is a business entity with a principal place of business in Birmingham, Alabama.
- 10 7. Defendant acted through its agents, employees, officers, members, directors, heirs,
- 11 successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

- 13 8. In or around 2014, Defendant began constantly and continuously placing collection calls
- 14 to Plaintiff seeking and demanding payment for an alleged debt.
- 15 9. Plaintiff's alleged debt arose through a consumer credit transaction.
- 16 10. Defendant places collection calls from telephone numbers, including, but not limited to,
- 17 800-239-2273.
- 18 11. Defendant places collection calls to Plaintiff's cellular telephones at phone number 858-
- 19 752-75XX.
- 20 12. Based upon the timing and frequency of Defendant's calls and per its prior business
- 21 practices, each of Defendant's calls were placed using an automatic telephone dialing
- 22 system.
- 23 13. On or around January 14, 2015 at approximately 10:19 a.m., Plaintiff spoke to Defendant's
- 24 representative, "Claudia," and requested that Defendant cease calling his cellular

1 telephone.

2 14. On or around May 14, 2015 at approximately 10:58 a.m., Plaintiff spoke to Defendant's
3 representative, "Joyce," and requested that Defendant cease calling his cellular telephone.

4 15. Plaintiff revoked any consent, express, implied or otherwise, to receive automated
5 collection calls from Defendant in the course of the telephone conversations on or around
6 January 14, 2015 and May 14, 2015.

7 16. Despite Plaintiff's request to cease, Defendant continued to place multiple collection calls
8 to Plaintiff on a daily basis.

9 17. Defendant placed at least one hundred and forty-two (142) collection calls to Plaintiff over
10 an approximate five-month period between January, 2015 and June, 2015.

11 **COUNT I**

12 **DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTIONS ACT**

13 18. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA,
14 entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation
15 pursuant to 47 U.S.C. § 227(b)(3)(B).

16 19. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or
17 willful violations of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory
18 damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C.
19 § 227(b)(3)(C).

20 Wherefore, Plaintiff, BRIAN LIVESAY, respectfully requests judgment be entered
21 against Defendant, BBVA COMPASS BANCSHARES, INC. for the following:

22 20. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant
23 to 47 U.S.C. § (b)(3)(B);

24 21. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the
25 TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

1 22. All court costs, witness fees and other fees incurred; and
2 23. Any other relief that this Honorable Court deems appropriate.
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5 DATED: October 14, 2015
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RESPECTFULLY SUBMITTED,
KROHN & MOSS, LTD.

By: /s/Ryan Lee
Ryan Lee
Attorney for Plaintiff

11 **DEMAND FOR JURY TRIAL**
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13 PLEASE TAKE NOTICE that Plaintiff, BRIAN LIVESAY, demands a jury trial in this
case.
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